



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2015-1039]

RIN 1625-AA08

Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations Update

AGENCY: Coast Guard, DHS.

ACTION: Final Rule.

SUMMARY: The Coast Guard is amending and updating its special local regulations relating to recurring marine parades, regattas, and other events that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). This rule informs the public of regularly scheduled events that require additional safety measures through the establishing of a special local regulation. Through this rulemaking the current list of recurring special local regulations is updated with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley's AOR. When these special local regulations are enforced, certain restrictions are placed on marine traffic in specified areas.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-1039 in the "SEARCH" box and click

"SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer James Robinson, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779-5347, e-mail James.C.Robinson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Captain of the Port (COTP) Ohio Valley is establishing, amending, and updating its current list of recurring special local regulations codified under 33 CFR 100.801 in Table no. 1, for the COTP Ohio Valley zone.

On January 25, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Sector Ohio Valley Annual and Recurring Special Local Regulations Update (81 FR 3976). During the comment period that ended April 25, 2016, the Coast Guard received information regarding dates for three events from the event sponsors. This information is discussed in this document.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Though we are not providing a full 30-day delay in the effective date, the Coast Guard did provide notice and the opportunity to comment through the NPRM process and is now providing as much notice as possible before the first recurring event enforcement is required on June 19. It

is impracticable to provide a full 30-days notice because this rule must be effective June 19, 2016 to accommodate the first event.

III. Legal Authority and Need for Rule

The Coast Guard's authority for establishing a special local regulation is contained at 33 U.S.C. 1233. The Coast Guard is amending and updating the special local regulations under 33 CFR part 100 to include the most up to date list of recurring special local regulations for events held on or around navigable waters within the Sector Ohio Valley AOR. These events include marine parades, boat races, swim events, and others. The current list under 33 CFR 100.801 requires amending to provide new information on existing special local regulations, include new special local regulations expected to recur annually or biannually, and to remove special local regulations that are no longer required. Issuing individual regulations for each new special local regulation, amendment, or removal of an existing special local regulation creates unnecessary administrative costs and burdens. This rulemaking reduces administrative overhead and provides the public with notice through publication in the **Federal Register** of the upcoming recurring special local regulations.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received information regarding three recurring events from the event sponsors during the NPRM comment period. This information requires changes to the regulatory text of this rule from the proposed rule in the NPRM. Those changes are as follows:

Change 1: The sponsor of the Owensboro Air show requested a change to the proposed event date as listed in Table 1, Line 54. Instead of occurring 3 days during the first or second weekend in September, the new date will be published in the final rule as: 3 days during one of the last three weekends in September. This change was requested to enable the Air Show to take place without

conflicting with other events occurring in September.

Change 2: The sponsor of the REV3 Triathlon requested a change to the proposed date as listed in Table 1, Line 4. Instead of occurring 1 day during the first or second weekend in May, the new date will be published in the final rule as: 1 day during the third or fourth weekend in May starting in 2016. This change was requested due to scheduling conflicts with other events. This final rule was not published in time for the May 22, 2016 occurrence of this event. Therefore, a temporary final rule for this event was issued on May 20, 2016. That rule is accessible as indicated under ADDRESESS.

Change 3: The sponsor of the Hadi-Shrine/Evansville Freedom Festival Air Show informed the Coast Guard that the proposed expanded date period from 3 to 4 days was no longer needed and the currently published date period of 3 days fits the air show portion of their event. Therefore, the date for this event as listed in Table 1, Line 46 will remain: 3 days during the second or third weekend in June. The event sponsor also informed the Coast Guard that the 2016 occurrence of this event fell on the fourth weekend in June. Therefore, a separate temporary final rule is being issued to establish the necessary special local regulation on June 24-26, 2016. That rule is available as indicated under ADDRESSES.

These requested changes are based on the individual sponsors' efforts to coordinate events alongside others in the local community. In some instances, these changes have been advertised to and planned on by the local community, and minimally impact the dates of 3 events as listed in the NPRM. These revised dates are also considered within the current environmental review.

Therefore, the Coast Guard is publishing this final rule with the requested date changes. All proposed new additions to and removals from the recurring list remain the same as in the NPRM.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard expects the economic impact of this rule to be minimal, and therefore a full regulatory evaluation is unnecessary. This rule establishes special local regulations limiting access to certain areas under 33 CFR part 100 within Sector Ohio Valley’s AOR. The effect of this rulemaking will not be significant because these special local regulations are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and thus will be able to plan around the special local regulations in advance. Deviation from the special local regulations established through this proposed rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis. Broadcast Notices to Mariners and Local Notices to Mariners will also inform the community of these special local regulations so that they may plan accordingly for these short restrictions on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the special local regulation areas during periods of enforcement. The special local regulations will not have a significant economic impact on a substantial number of small entities because they are limited in scope and will be in effect for short periods of time. Before the enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users. Deviation from the special local regulations established through this rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and

Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations related to marine event permits for marine parades, regattas, and other marine events. It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR part 100 as

follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. Amend §100.801 by revising table 1 of §100.801 to read as follows:

§100.801 Annual Marine Events in the Eighth Coast Guard District.

* * * * *

Table 1 of §100.801—Ohio Valley Captain of the Port Zone Annual and Recurring Marine Events

Date	Event/sponsor	Ohio Valley location	Regulated area
1. The first Saturday in April	University of Charleston Rowing/West Virginia Governor's Cup Regatta	Charleston, WV	Kanawha River, Mile 59.9 - 61.4 (West Virginia).
2. 1 day - Saturday before Memorial Day weekend	Venture Outdoors/Venture Outdoors Festival	Pittsburgh, PA	Allegheny River, Mile 0.0 - 0.25 Monongahela River 0.0 - 0.25 (Pennsylvania).
3. 1 day - During the last week of April or first week of May	Kentucky Derby Festival/Belle of Louisville Operating Board/Great Steamboat Race	Louisville, KY	Ohio River, Mile 596.0 - 604.3 (Kentucky).
4. 1 day - Third or fourth weekend in May	REV3/REV3 Triathlon	Knoxville, TN	Tennessee River, Mile 646.0 - 649.0 (Tennessee).
5. 1 day - Third weekend in May	World Triathlon Corporation/IRONMAN 70.3	Chattanooga, TN	Tennessee River, Mile 463.0 - 466.0 (Tennessee).
6. 1 day - second weekend in June	Chattanooga Parks and Rec/Chattanooga River Rats Open Water Swim	Chattanooga, TN	Tennessee River, Mile 464.0 - 469.0 (Tennessee).
7. 1 day - Third or fourth weekend in June	Greater Morgantown Convention and Visitors Bureau/Mountaineer Triathlon	Morgantown, WV	Monongahela River, Mile 101.0 - 102.0 (West Virginia).

8. 2 days - First weekend of June	Kentucky Drag Boat Association	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
9. Fourth Sunday in June	Green Umbrella/Ohio River Paddlefest	Cincinnati, OH	Ohio River, Mile 459.5 - 470.2 (Ohio and Kentucky).
10. 1 day - Fourth or fifth Sunday in September	Green Umbrella/Great Ohio River Swim	Cincinnati, OH	Ohio River, Mile 469.8 - 470.2 (Ohio and Kentucky).
11. 1 day - One of the last two weekends in September	Ohio River Open Water Swim	Prospect, KY	Ohio River, Mile 588.0 - 590.0 9 (Kentucky).
12. 2 days - Second or third weekend in September	Louisville Dragon Boat Festival	Louisville, KY	Ohio River, Mile 603.0 - 603.5 (Kentucky).
13. 1 day - Third or fourth Sunday of July	Tucson Racing/Cincinnati Triathlon	Cincinnati, OH	Ohio River, Mile 469.3 - 470.2 (Ohio).
14. 2 days - First weekend of July	Kentucky Drag Boat Association	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
15. 1 day - Second weekend in July	Bradley Dean/Renaissance Man Triathlon	Florence, AL	Tennessee River, Mile 255.0 - 257.0 (Alabama).
16. 3 days - One of the first two weekends in July	Madison Regatta, Inc./Madison Regatta	Madison, IN	Ohio River, Mile 555.0 - 560.0 (Indiana).
17. 1 day - Third Saturday in July	Pittsburgh Irish Rowing Club/ St. Brendan's Cup Currach Regatta	Pittsburgh, PA	Miles 7 - 9, Ohio River back channel (Pennsylvania).
18. 1 day - One of the last three weekends in June	Louisville Race the Bridge Triathlon	Louisville, KY	Ohio River, Mile 601.5 - 603.0 (Kentucky).
19. 1 day - Fourth weekend in June	Team Magic/Chattanooga Waterfront Triathlon	Chattanooga, TN	Tennessee River, Mile 463.0 - 465.0 (Tennessee).
20. 1 day - Fourth weekend in July	Team Magic/Music City Triathlon	Nashville, TN	Cumberland River, Mile 190.0 - 192.0 (Tennessee).
21. 2 days - Last two weekends in	Friends of the Riverfront Inc./Pittsburgh Triathlon and	Pittsburgh, PA	Allegheny River, Mile 0.0 - 1.5

July or first week of August	Adventure Races		(Pennsylvania).
22. 3 days - First week of August	EQT Pittsburgh Three Rivers Regatta	Pittsburgh, PA	Ohio River, Mile 0.0 - 0.5, Allegheny River, Mile 0.0 - 0.6, and Monongahela River, Mile 0.0 - 0.5 (Pennsylvania)
23. 2 days - First weekend of August	Kentucky Drag Boat Association	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
24. 2 days - last weekend in September	Captain Quarters Regatta	Louisville, KY	Ohio River, Mile 595.0 - 597.0 (Kentucky).
25. 2 days - Second or third weekend in October	Norton Healthcare/Ironman Triathlon	Louisville, KY	Ohio River, Mile 601.5 - 604.5 (Kentucky).
26. 2 days - Third full weekend (Saturday and Sunday) in August	Ohio County Tourism/Rising Sun Boat Races	Rising Sun, IN	Ohio River, Mile 504.0 - 508.0 (Indiana and Kentucky).
27. 1 day - Last weekend in August	Tennessee Clean Water Network/Downtown Dragon Boat Races	Knoxville, TN	Tennessee River, Mile 647.0 - 649.0 (Tennessee)
28. 3 days - Third weekend in August	Governors' Cup / UWP-IJSBA National Championships	Charleston, WV	Kanawha River, Mile 56.7 - 57.6 (West Virginia).
29. 2 days - Fourth weekend in July	Herd Racing LLC/Huntington Classic	Huntington, WV	Ohio River, Mile 307.3 - 309.3 (West Virginia).
30. 2 days - Last weekend in September	Fall Records Challenge Committee/Fall Records Challenge	New Martinsville, WV	Ohio River, Mile 128.5 - 129.5 (West Virginia).
31. 2 days - Labor Day weekend	Wheeling Vintage Race Boat Association Ohio/Wheeling Vintage Regatta	Wheeling, WV	Ohio River, Mile 090.4 - 091.5 (West Virginia).
32. 2 days - weekend before	SUP3Rivers The Southside Outside	Pittsburgh, PA	Monongahela River, Mile 0.0 - 3.09 Allegheny River

Labor Day			Mile 0.0 - 0.25 (Pennsylvania)
33. 1 day - Saturday before Labor Day	Wheeling Dragon Boat Race	Wheeling, WV	Ohio River, Mile 90.4 - 91.5 (West Virginia).
34. 1 day - First or second weekend in September	Cumberland River Compact/Cumberland River Dragon Boat Festival	Nashville, TN	Cumberland River, Mile 190.0 - 192.0 (Tennessee).
35. 2 days - First or second weekend in September	State Dock/Cumberland Poker Run	Jamestown, KY	Lake Cumberland (Kentucky).
36. 3 days - First or second weekend in September	Sailing for a Cure Foundation/SFAC Fleur de Lis Regatta	Louisville, KY	Ohio River, Mile 601.0 - 604.0 (Kentucky).
37. 1 day - One weekend, last half of September	Harbor House of Louisville/Ken“Ducky” Derby	Louisville, KY	Ohio River, Mile 602.0 - 604.0 (Kentucky).
38. 1 day - Last weekend in September	World Triathlon Corporation/IRONMAN Chattanooga	Chattanooga, TN	Tennessee River, Mile 463.0 - 467.0 (Tennessee)
39. 1 day - Second weekend in September	City of Clarksville/Clarksville Riverfest Cardboard Boat Regatta	Clarksville, TN	Cumberland River, Mile 125.0 - 126.0 (Tennessee).
40. 2 days - First weekend of October	Three Rivers Rowing Association/Head of the Ohio Regatta	Pittsburgh, PA	Allegheny River, Mile 0.0 - 4.0 (Pennsylvania).
41. 1 day - First or second weekend in October	Lookout Rowing Club/Chattanooga Head Race	Chattanooga, TN	Tennessee River, Mile 464.0 - 467.0 (Tennessee).
42. 1 day - Third weekend in November	TREC-RACE/Pangorge	Chattanooga, TN	Tennessee River, Mile 444.0 - 455.0 (Tennessee).
43. 3 days - First weekend in November	Atlanta Rowing Club/Head of the Hooch Rowing Regatta	Chattanooga, TN	Tennessee River, Mile 464.0 - 467.0 (Tennessee).

44. One Saturday in June or July	Paducah Summer Festival/Cross River Swim	Paducah, KY	Ohio River, Mile 934 -936 (Kentucky).
45. 1 day - During the last weekend in May	Louisville Metro Government/Mayor's Healthy Hometown Subway Fresh Fit, Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 602.0 - 603.5 (Kentucky).
46. 3 days - Second or third weekend in June	Hadi Shrine/Evansville Freedom Festival Air Show	Evansville, IN	Ohio River, Mile 791.0 - 795.0 (Indiana).
47. 1 day - Second or third Saturday in July	Allegheny Mountain LMSC/Search for Monongy	Pittsburgh, PA	Allegheny River, Mile 0.0 - 0.6 (Pennsylvania).
48. 1 day - July 4th	Wellsburg 4th of July Committee/Wellsburg 4th of July Fireworks	Wellsburg, WV	Ohio River, Mile 73.5 - 74.5 (West Virginia).
49. 1 day - During the first week of July	Evansville Freedom Celebration/4 th of July Freedom Celebration	Evansville, IN	Ohio River, Mile 791.0 - 796.0 (Indiana).
50. 1 day - First weekend in September	Louisville Metro Government/Mayor's Healthy Hometown Subway Fresh Fit, Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 602.0 - 603.5 (Kentucky).
51. 2 days - Third or fourth weekend in July	Dare to Care/KFC Mayor's Cup Paddle Sports Races/Voyageur Canoe World Championships	Louisville, KY	Ohio River, Mile 601.0 - 604.0 (Kentucky).
52. 3 days - Fourth weekend in August	Kentucky Drag Boat Association/Thunder on the Green	Livermore, KY	Green River, Mile 70.0 - 71.5 (Kentucky).
53. 1 day - Fourth weekend in August	Team Rocket Tri-Club/Rocketman Triathlon	Huntsville, AL	Tennessee River, Mile 333.0 - 334.5 (Alabama).
54. 3 days - One of the last three weekends in September	Hadi Shrine/Owensboro Air Show	Owensboro, KY	Ohio River, Mile 755.0 - 759.0 (Kentucky).
55. 1 day - First Sunday in August	HealthyHuntington.org/St. Marys Tri-state Triathlon	Huntington, WV	Ohio River, Mile 307.3 - 308.3 (West Virginia).
56. 2 days - First Weekend in	Buckeye Outboard Association/Portsmouth Challenge	Portsmouth, OH	Ohio River, Mile 355.3 - 356.7 (Ohio).

August			
57. 1 day - Sunday before Labor Day	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest	Cincinnati, OH	Ohio River, Mile 464.0 - 476.0 (Kentucky and Ohio) and Licking River Mile 0.0 - 3.0 (Kentucky).
58. 2 days - First or second weekend in September	State Dock/Cumberland Poker Run	Jamestown, KY	Lake Cumberland (Kentucky).
59. 1 day - One weekend, last half of September	Harbor House of Louisville/Ken“Ducky” Derby	Louisville, KY	Ohio River, Mile 602.0 - 604.0 (Kentucky).
60. Second Sunday in September	Ohio River Sternwheel Festival Committee Sternwheel race reenactment	Marietta, OH	Ohio River, Mile 170.5 - 172.5 (Ohio)
61. Second Saturday in September	Parkesburg Paddle Fest	Parkersburg, WV	Ohio River, Mile 184.3 - 188 (West Virginia)
62. Three days during the fourth weekend in September	New Martinsville Records and Regatta Challenge Committee	New Martinsville, WV	Ohio River, Mile 128 - 129 (West Virginia)
63. First weekend in July	Eddyville Creek Marina/Thunder Over Eddy Bay	Eddyville, KY	Cumberland River Mile 46.0 - 47.0. (Kentucky).
64. First or second weekend of July	Prizer Point Marina/4th of July Celebration	Cadiz, KY	Cumberland River, Mile 54.0 - 55.09 (Kentucky).
65. 2 days, last weekend in May or first weekend in June	Visit Knoxville/Racing on the Tennessee	Knoxville, TN	Tennessee River, Mile 647.0 - 648.0 (Tennessee).
66. 1 day - Second weekend in September	Start 2 Finish/Nashvegas Triathlon	Ashland City, TN	Cumberland River, Mile 157.0 - 159.0 (Tennessee).

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Dated: May 20, 2016.

R. V. Timme,
Captain, U. S. Coast Guard,
Captain of the Port Ohio Valley.

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